

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MD ABUL KALAM,

Plaintiff,

-against-

SUSAN QUINTANA,

Defendant.

USDC SDNY
DOCUMENT
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DATE FILED: 07/07/2023

23-CV-3060 (AT) (BCM)

ORDER

On April 12, 2023, *pro se* plaintiff Md Abul Kalam filed a Complaint against Susan Quintana, in her official capacity as the Director of the New York Field Office of the United States Citizenship and Immigration Services, seeking review of that agency's final determination to deny his application for citizenship. (Dkt. 1.) No answer or other response has been filed.

The Court is aware that on May 1, 2023, plaintiff filed an affidavit of service dated April 26, 2023. (Dkt. 5.) However, the affidavit states only that the summons and Complaint were sent to the defendant by United States Mail on April 26, 2023. (*Id.*) Rule 4(i)(1) of the Federal Rules of Civil Procedure, which governs service on the United States and its agencies, requires more than this:

(i) Serving the United States and Its Agencies, Corporations, Officers, or Employees.

(1) *United States.* To serve the United States, a party must:

(A) **(i)** deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought--or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk--or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

- (C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.
- (2) ***Agency; Corporation; Officer or Employee Sued in an Official Capacity.*** To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.
- (3) ***Officer or Employee Sued Individually.*** To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).
- (4) ***Extending Time.*** The court must allow a party a reasonable time to cure its failure to:
 - (A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or
 - (B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.

Fed. R. Civ. P. 4(i).

Fed. R. Civ. P. 4(m) requires that a defendant be served within 90 days after the complaint is filed. In light of plaintiff's *pro se* status, the Court *sua sponte* extends plaintiff's time to serve process until **August 10, 2023** (120 days after the filing of the Complaint). Failure to effect service by that date in accordance with Rule 4(i) may result in dismissal of this action.

Dated: New York, New York
July 7, 2023

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge